

IN THE CIRCUIT COURT OF COOK COUNT, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

Karen Oaks,
Plaintiff

v.

No. 09 CH 7571

Jody Weis, et al.,
Defendants

Memorandum Opinion

This cause is before the Court on the Chicago Police Board, and Jody Weis Chicago Police Department Superintendent's Motion for Clarification and Reconsideration of the Court's January 4, 2010 Memorandum Opinion.

I. Introduction

In its January 4, 2010 Memorandum Opinion the court reversed the discharge of Ms. Oaks. A motion to reconsider provides the court with an opportunity to be informed of and correct any errors it has made. The Board and Superintendent Weis argue that the court misapplied the standard of review applicable to Mr. Oaks's administrative appeal.

II. Facts

The facts of the case are provided in detail in the Court's January 4, 2010 Memorandum Opinion, so it is only necessary to summarize them here. Karen Oaks was a Chicago police officer charged with monitoring and suppressing criminal activity in the Howard Ickes public housing projects of Chicago. Ms. Oaks was fired for fraternizing with a convicted felon. Ms. Oaks testified that Michael Myers, a convicted felon was one of her confidential informants. During an undercover drug buy operation conducted in late March of 2005, at the Ickes projects, Myers was arrested. Ms. Oaks held a brief conversation with Myers while he was in the lock-up section of First District police headquarters after his arrest. That conversation prompted disciplinary hearings.

At the disciplinary hearings the Superintendent introduced phone records showing that Ms. Oaks placed and received a number of telephone calls to and from a phone number linked to Myers, totaling 118 minutes during the three day undercover drug-buy operation. There was no evidence of what Ms. Oaks and Myers discussed in the lockup. There was also no evidence introduced regarding what Ms. Oaks and Myers discussed on the telephone. At the hearing Ms. Oaks stated that she could not remember the substance of those conversations.

The applicable standard of review for an administrative appeal involving the discharge of a police officer differs from the general standard of review in administrative review cases. Petitions for administrative review of decisions regarding the discharge of an employee involve two steps. Walsh v. Bd. of Fire and Police Commissioners of the Village of Orland Park, 96 Ill.2d 101, 105 (1983). First, as in most administrative

review actions, the court must determine if the agency's decision was against the manifest weight of the evidence. Id. Then the court must examine whether the agency's findings of fact provided a sufficient basis for the agency's determination that it had cause to discharge the employee in question. Id. In the January 4, 2010 opinion the court held that there was evidence in the record to support the Board's decision to terminate Ms. Oaks. However, the court determined that because the only evidence supporting the Board's decision was a matter of the quantity of conversations between Ms. Oaks and Myers rather than their substance, the Police Board acted unreasonably and arbitrarily and selected a type of discipline unrelated to the needs of the department.

III. Discussion

The Board and Superintendent Weis ask the court to either reconsider or clarify that decision. A motion to reconsider is designed to bring the Court's attention to: (1) newly discovered evidence, (2) changes in the law, or (3) errors in the court's previous application of existing law. N. River Ins. Co. v. Grinnell Mut. Reinsurance Co., 369 Ill.App.3d 563, 572 (1st Dist. 2006). Further, Illinois circuit courts should not permit litigants to stand mute, lose a motion, and then frantically gather evidentiary material to show that the court erred in its ruling. Caywood v. Gossett, 382 Ill.App.3d 124, 133-134 (1st Dist. 2008). Arguments raised for the first time in a motion for reconsideration are deemed waived. Illinois Health Maintenance Org. Guar. Ass'n v. Shapo, 357 Ill.App.3d 122, 137 (1st Dist. 2005). The Board and Superintendent Weis do not introduce newly discovered evidence or changes in the law.

The Defendants contend that the court erred in its application of the second prong of the test in Walsh, and they are correct. Walsh's second prong provides that the court must examine whether the agency's findings of fact provided a sufficient basis for the agency's determination that it had cause to discharge the employee in question. Walsh, 96 Ill.2d at 105. In the court's analysis of the second prong from Walsh it erroneously re-examined the evidence, rather than merely analyzing that evidence in relation to the discipline imposed. In particular the court incorrectly found that neither one short in-person conversation nor a series of phone-calls "establishes that Ms. Oaks fraternized with a known felon." (Jan. 4, 2010, Mem. Op. p. 3). That analysis erroneously conflates the second prong from Walsh with the first.

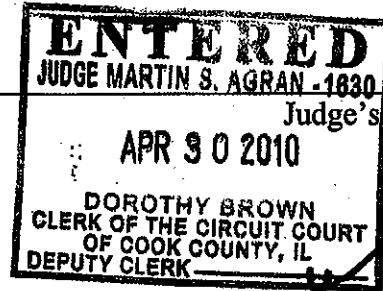
To clarify, while there is support in the record for the Board's decision to terminate Ms. Oaks, the court considers the discipline imposed to be arbitrary and unreasonable as it is unrelated to the needs of the department. The Court's original analysis that the only evidence supporting the Board's decision was a matter of the quantity of conversations between Ms. Oaks and Myers rather than their substance is still sound. As such, the Police Board acted unreasonably and arbitrarily and selected a type of discipline unrelated to the needs of the department when it discharged Ms. Oaks. Therefore, the case is hereby remanded to the Board for an alternative penalty to be considered.

IV. Conclusion

The Defendant's Motion for Clarification is granted. The Administrative Decision to discharge Officer Oaks is hereby, remanded to the Board for an alternative penalty to be considered.

ENTER,

Judge



Judge's No